

IN THE COURT OF COMMON PLEAS OF
VENANGO COUNTY, PENNSYLVANIA

COMMONWEALTH
OF PENNSYLVANIA

Vs.

EDWARD MCNATT

:
:
:
:
: CR NO. 182-1998
: CR NO. 183-1998

COPY

PROCEEDINGS OF TRANSCRIPT

AT TIME OF PLEA COLLOQUY

Proceedings in the above-entitled
matter had before Honorable H. William White,
President Judge, in Courtroom 1, at the
Courthouse in Franklin, Venango County,
Pennsylvania, Tuesday, September 15, 1998,
commencing at 5:06 p.m.

APPEARANCES:

ROBERT GROSSI, Assistant District Attorney
Appeared on behalf of the Commonwealth

BLAIR H. HINDMAN, Esquire

Appeared on behalf of Edward McNatt

Reported by Lori M. Kupniewski
Calhoun Reporting

PEGGY L. MILLER
PROTHONOTARY AND
CLERK OF COURTS

2005 DEC 28 A 9:14

FILED
COMMON PLEAS COURT
VENANGO COUNTY PA

Lori M. Kupniewski
Official Court Reporter

PETITIONER'S EXHIBIT B

1 THE COURT: All right. I'm
2 going to take roll. As your name is called
3 please stand and state either "here" or
4 "present."

5 (Roll Call was taken.)

6 THE COURT: The purpose of
7 arraignment is to formally advise you of the
8 charges and also advise you of certain things
9 that occur between now and the time your case
10 is scheduled for trial. Generally speaking, if
11 you have counsel, you can waive arraignment and
12 take the case directly into court. However, if
13 you do not have counsel, you cannot waive
14 arraignment because the Court has to be sure
15 you understand your pretrial rights.

16 Now, if you intend to enter a
17 guilty plea, then we have to go through
18 extensive colloquy to be certain that the plea
19 which you are tendering is knowingly,
20 intelligently, and voluntarily understood by
21 you.

22 Now, with regard to those of you
23 who are pleading not guilty, I am going to
24 advise you at this time of your pretrial
25 rights:

1 You have the right to file an
2 omnibus pretrial motion for relief within
3 thirty (30) days from today, that is the date
4 of arraignment, unless the opportunity to file
5 a motion did not exist, or you or your attorney
6 or the District Attorney were not aware of the
7 grounds for the motion or unless the time for
8 filing the pretrial motion has been extended by
9 the Court on good cause shown.

10 The types of relief that are
11 normally requested in the pretrial omnibus
12 motion include, but is not necessarily limited
13 to, the following types of motion: For
14 continuance, for severance or joinder or
15 consolidation, to suppress evidence, to have a
16 psychiatric assessment, to quash the
17 information, for change of venue or venire, to
18 disqualify a specific judge, to have an
19 investigator appointed, or for a special
20 pretrial conference.

21 You also have a right to file a
22 bill of particulars within seven (7) days
23 following arraignment. A bill of particulars
24 is a pleading wherein if you are dissatisfied
25 with the form of the information or the

1 specificity of the information, you can request
2 the District Attorney to be more specific in
3 the allegations against you.

4 You have a right to request
5 pretrial discovery and inspection. That motion
6 for pretrial discovery and inspection must be
7 filed within fourteen (14) days after
8 arraignment unless the time for filing is
9 extended by the Court.

10 If you intend to assert a
11 defense of alibi, or a defense of insanity or
12 mental infirmity, you must give written notice
13 of your intention to assert such a defense
14 within thirty (30) days of arraignment.

15 Now, each of you has a right to
16 an attorney. If you are not indigent, then you
17 can hire an attorney that you choose. If you
18 do not know an attorney or do not know how to
19 locate an attorney, the Court Administrator,
20 whose office is in the Judge's Chambers,
21 maintains a list of attorneys who want to
22 practice criminal law, she maintains their
23 hourly rates, and, therefore, could assist you
24 in helping to find an attorney to represent you
25 in your case.

1 If you are indigent -- indigent
2 normally means you are eligible for Department
3 of Public Welfare assistance -- then you may be
4 entitled to Court-appointed counsel, in which
5 event we would assign a Public Defender to
6 represent you, free of charge. In any event,
7 you have an absolute right to an attorney, and
8 if you are indigent, you are entitled to
9 Court-appointed counsel.

10 Each of you has a right to have
11 a trial, and that is a trial by jury of twelve
12 (12) citizens of the county. If you elect to
13 be tried by a jury, you and your attorney would
14 fully participate in picking the jury that
15 decides your case. In Venango County, jurors
16 are picked at random on a computer which is
17 programmed to select jurors from the people who
18 have driver's licenses and who are registered
19 to vote within the county. You would have a
20 right to exercise an unlimited number of
21 challenges for causes, and you could remove an
22 unlimited number of jurors for cause. You also
23 have a right to remove six (6) or eight (8)
24 jurors on peremptory challenges for any reason
25 at all.

1 If you were to be tried by a
2 jury, you could not be convicted unless all the
3 jurors were convinced by legal and competent
4 evidence beyond a reasonable doubt that you are
5 guilty. If only one juror could not agree to
6 find you guilty, then you could not be
7 convicted.

8 You could also elect to be tried
9 by a judge alone, instead of a jury, this does
10 require the Court's special permission.

11 In the course of your trial, you
12 have the right to be present throughout the
13 proceedings, you have a right to see and hear
14 the witnesses as they testify, you have the
15 right to assist your attorney in
16 cross-examining all the witnesses who are
17 called by the District Attorney. You have the
18 right to use the power of this court to compel
19 the attendance of witnesses and the production
20 of evidence on your behalf.

21 You have the right to testify at
22 your trial, although you are not required to
23 testify, and if you elected not to testify, the
24 jury or the judge could not consider the fact
25 that you did not testify in any way against

1 you.

2 The criminal Defendant is
3 presumed to be innocent of the charges against
4 him. That presumption protects the Defendant
5 throughout the trial. A defendant has a moral
6 right to force the Commonwealth to prove guilty
7 beyond a reasonable doubt.

8 Now, for those of you who are
9 pleading guilty today, you are advised that
10 your rights to review on appeal are not as
11 broad if you plead guilty as they would be if
12 you went through a trial. Normally, if you go
13 through a trial, any issue that is properly
14 raised in the course of the proceedings can be
15 reviewed by an appellate court, and if the
16 judge is wrong on his rulings or an impropriety
17 or another violation of your due process rights
18 occurred, you could receive a new trial.
19 However, if you plead guilty, only four (4)
20 issues could be raised on an appeal from a
21 sentence after the guilty pleas if you are
22 dissatisfied. Those issues are: That your
23 plea was unlawfully induced or not voluntarily,
24 understandingly, or intelligently made by you;
25 or that the sentence which we imposed is

1 illegal; or that this Court, for some reason,
2 does not have jurisdiction over your case; or
3 that you did not receive adequate
4 representation from your attorney.

5 You are also advised, for those
6 of you who are pleading guilty today that if
7 there are other charges that are pending
8 against you in this county, it may be in your
9 best interests to get those other charges
10 resolved before you appear for sentencing on
11 the charges you are pleading guilty to today,
12 since sentences sometimes run concurrently.

13 For those of you who are
14 pleading guilty, you are advised that you would
15 have until the date of sentencing to file a
16 motion asking to be allowed to withdraw your
17 guilty plea. If you do not file a motion to
18 change your guilty plea by the date of
19 sentencing, the court rules permit you to file
20 such a motion even within ten (10) days after
21 sentencing. However, it is much more difficult
22 to have that motion granted if you have waited
23 until after sentencing to file it. Generally
24 speaking, the motion is liberally granted if
25 you file the amotion to withdraw your guilty

1 plea before sentencing.

2 THE COURT: Edward McNatt.

3 Mr. McNatt is present, being represented by
4 Mr. Hindman. Is there a written plea
5 agreement, Mr. Hindman?

6 MR. HINDMAN: Yes, there is,
7 Your Honor.

8 THE COURT: I don't have it. At
9 least I don't think I do.

10 MR. HINDMAN: This is the
11 original (indicating.)

12 THE COURT: Okay. Mr. Hindman,
13 what we do -- I know this is different than
14 Jefferson County. You recite on the record at
15 this point your understanding of the plea
16 agreement, at least the material components.

17 MR. HINDMAN: I had the benefit
18 of watching a few predecessors. This is a
19 negotiated plea agreement which consolidates
20 182 and 183 under this negotiated plea. The
21 Defendant agrees to plead guilty to Count 1,
22 which is Forgery, a Felony of the Third Degree;
23 and Count 5, which is Theft by Deception,
24 Misdemeanor of the First Degree; in exchange of
25 all other counts. The information is to be

1 nolle prosequi by the Commonwealth.

2 THE COURT: Mr. McNatt, the
3 information tells us you live at 2123 Hoffman
4 Avenue, at least one of them does; is that
5 accurate?

6 MR. MCNATT: No.

7 THE COURT: What do you consider
8 your home address now?

9 MR. MCNATT: P.O. Box 1000,
10 Houtzdale, Pennsylvania.

11 THE COURT: Now, that sounds
12 like a lock-up.

13 MR. MCNATT: Yeah, it is.

14 THE COURT: Okay. I take
15 it -- what are you on parole for? And you're
16 going to get some -- no, you're brought back
17 here for this.

18 MR. MCNATT: Yes.

19 THE COURT: So you're at
20 Houtzdale?

21 MR. MCNATT: Houtzdale.

22 THE COURT: I call it Houtzdale.
23 I'm the judge. What's the ZIP there?

24 MR. MCNATT: 16698-1000. Would
25 you like my institutional number with that

1 also?

2 THE COURT: Probably better.

3 MR. MCNATT: DL6772.

4 THE COURT: Thank you. All
5 right. And your date of birth?

6 MR. MCNATT: 2/14/79.

7 THE COURT: And your Social
8 Security number?

9 MR. MCNATT: 182-52-5701.

10 THE COURT: Are you married?

11 MR. MCNATT: No.

12 THE COURT: Do you have
13 children?

14 MR. MCNATT: Yes.

15 THE COURT: How many?

16 MR. MCNATT: One.

17 THE COURT: That child's sex and
18 age?

19 MR. MCNATT: I have a boy, 16
20 months old.

21 THE COURT: How far did you go
22 in school?

23 MR. MCNATT: I got a total of 10
24 years.

25 THE COURT: All right. And,

1 obviously, you can read and write then.

2 MR. MCNATT: Uh-huh.

3 THE COURT: In the last two
4 days, have you had any illegal drugs or
5 alcoholic beverages?

6 MR. MCNATT: No.

7 THE COURT: Any medications?

8 MR. MCNATT: No.

9 THE COURT: What was your last
10 job?

11 MR. MCNATT: I'm working at the
12 prison. Is that what you're talking about?

13 THE COURT: No. The last
14 civilian job.

15 MR. MCNATT: I -- homes.

16 THE COURT: What do you do?

17 MR. MCNATT: I set houses.

18 THE COURT: Okay. Mr. Hindman,
19 do you have the information there?

20 MR. HINDMAN: I do, Your Honor.

21 THE COURT: Does he have it in
22 front of him? We're going to start with one
23 forgery charge. Mr. McNatt, the Commonwealth
24 has to prove in order to convict you -- I'm not
25 going to go over the other charges since

1 they're nolle prosequere -- that on July 14 of
2 last year, you did with the intent to
3 defraud -- now, intent means that it was your
4 conscious objective to facilitate a fraud, make
5 a writing in this case, you wrote checks 6556
6 in the amount of 135.17 drawn from PNC Bank,
7 William and Francis Reese, who didn't authorize
8 the act in Bedler's (phonetic) Village, the key
9 to forging as to writing a bad check from your
10 checking account in your name and so on, forged
11 a signature of somebody and forged a check on
12 somebody else's account purporting to be
13 somebody else.

14 As I understand it, that's the
15 way it is charged, making the instrument
16 without the authority to do it. Do you
17 understand?

18 MR. MCNATT: Yes, sir.

19 THE COURT: Count 5 at C.R. 183,
20 Theft by Deception, alleged that you did on
21 August 6, 1997, at Riverside obtain property,
22 in this case, probably money or groceries, by
23 deception. And you created a false impression
24 as to your authority to write the checks and as
25 to whether or not the checks were good and

1 honored by the drawer to approve them. They
2 would have to prove that to get you for Theft
3 by Deception. Do you understand that?

4 MR. MCNATT: Yes, Your Honor.

5 THE COURT: And are you
6 confessing to these offenses as substantially
7 as they are charged?

8 MR. MCNATT: Yes.

9 THE COURT: Please, go ahead,
10 Mr. Hindman, with your factual basis. Ask
11 questions.

12 MR. HINDMAN: Taking you back to
13 the time period between, as the Court has
14 mentioned, July 14, 1997 and August 6, 1997,
15 did you, in fact, write checks to yourself
16 under your true name and sign the back of those
17 checks under a false name?

18 MR. MCNATT: I signed the front
19 of the check with a false name.

20 MR. HINDMAN: So you did use a
21 name other than your own?

22 MR. MCNATT: Yes.

23 MR. HINDMAN: Passing any of
24 these checks to a certain establishment?

25 MR. MCNATT: Yes.

1 MR. HINDMAN: Riverside?

2 MR. MCNATT: And Bedler's

3 Village.

4 MR. HINDMAN: Did you receive

5 property?

6 MR. MCNATT: Yes.

7 MR. HINDMAN: What type of

8 property?

9 MR. MCNATT: Cash and

10 merchandise.

11 MR. HINDMAN: That's all I have,

12 Your Honor.

13 THE COURT: Do you want to

14 develop anything?

15 MR. GROSSI: Yes, Your Honor.

16 Mr. McNatt, I just want to go to Count 1,

17 Forgery, at 182. When you wrote that check,

18 you wrote that check signing someone else's

19 name?

20 MR. MCNATT: Yes.

21 MR. GROSSI: And that was from

22 their bank account as well?

23 MR. MCNATT: Yes.

24 MR. GROSSI: And that was the

25 one that you cashed at Bedler's Village?

1 MR. MCNATT: Yes.

2 MR. GROSSI: And at Riverside,
3 you cashed a check, and those checks would not
4 be honored?

5 MR. MCNATT: Yes, I forged them.
6 Yes.

7 MR. GROSSI: I have nothing
8 further.

9 THE COURT: Okay. You're
10 satisfied with the factual basis?

11 MR. GROSSI: Yes.

12 THE COURT: Okay. The forgery
13 is a Felony 3. It carries a maximum of seven
14 (7) years in jail, and \$15,000 in fines. A
15 Theft is an M-II and carries two (2) years in
16 jail and \$5,000 in fines, if I run them
17 consecutively.

18 MR. GROSSI: Your Honor, on
19 Count 5 of 183-1998, pleading guilty on the
20 plea agreement, that it would be a Misdemeanor
21 in the Third Degree being the amount is below
22 2,000. And the information was not amended,
23 and I would like to ask that this be amended.

24 THE COURT: So we are amending
25 the information to read Misdemeanor I, and that

1 changes from what I said to be two (2) years,
2 5,000, to five (5) years --

3 MR. GROSSI: 10,000.

4 THE COURT: -- 10,000. All
5 right. So if my math is right, now you could
6 receive six (6) to 12 years and 25,000 in
7 fines. That's the most you could receive. And
8 the Judge could lawfully give you that
9 sentence. Do you understand that?

10 MR. MCNATT: Yes.

11 THE COURT: Do you understand
12 you're not getting a lighter sentence just
13 because you're pleading guilty?

14 MR. MCNATT: Yes, Your Honor.

15 THE COURT: Now, the plea
16 agreement is signed by Mr. Hindman, I think,
17 and Mr. Grossi. And it's dated today.
18 Mr. McNatt, I'm going to hold this up. Is that
19 your signature on this?

20 MR. MCNATT: Yes, Your Honor.

21 THE COURT: Did you go over this
22 with Mr. Hindman at the time you signed it?

23 MR. MCNATT: Yes.

24 THE COURT: Were any promises
25 made to you or any indications or anything else

1 by the DA to get you to plead to this other
2 than what's in the agreement?

3 MR. MCNATT: No, Your Honor.

4 THE COURT: You're pleading
5 guilty to Forgery, a Misdemeanor 1, Theft by
6 Deception, and the Commonwealth is going to
7 drop all of the other counts, agreed to make
8 restitution to all of the checks even though
9 you're not pleading guilty to all of those. Do
10 you understand that?

11 MR. MCNATT: Yes, Your Honor.

12 THE COURT: All right. We
13 approve the plea agreement. Has anybody
14 threatened you or used any force in order to
15 make you plead guilty?

16 MR. MCNATT: No, Your Honor.

17 THE COURT: Has anyone offered
18 you special leniency or parole for your plea?

19 MR. MCNATT: No, Your Honor.

20 THE COURT: Do you have any
21 questions of me on your trial rights which
22 Judge Lobaugh explained to you earlier?

23 MR. MCNATT: No, Your Honor.

24 THE COURT: Do you have any
25 questions of me on your appellate rights and

1 how the plea affects your appellate rights?

2 MR. MCNATT: No, Your Honor.

3 THE COURT: What's your lawyer's
4 name?

5 MR. MCNATT: I'm not sure. It
6 used to be Ham until today.

7 THE COURT: You were represented
8 by Shelly Ham?

9 MR. MCNATT: Yes.

10 THE COURT: And she's being
11 replaced by Mr. Hindman?

12 MR. MCNATT: Yes, if that's his
13 name.

14 THE COURT: Have you had enough
15 time to meet with Shelly Ham, who was a PD
16 until her resignation -- have you had enough
17 time to meet with her or Mr. Hindman to go over
18 your case?

19 MR. MCNATT: Yes, Your Honor.

20 THE COURT: You're satisfied
21 with, after talking it over with whoever your
22 lawyer is or has been, that the plea is in your
23 best interest?

24 MR. MCNATT: Yes, Your Honor.

25 THE COURT: Are you satisfied

1 with the advice and services of Ms. Ham and
2 Mr. Hindman?

3 MR. MCNATT: Yes, Your Honor.

4 THE COURT: There's some
5 possibility that you will be sentenced by a
6 judge other than me since we now have three
7 judges sitting here from time to time. Do you
8 have any question about that?

9 MR. MCNATT: No, Your Honor.

10 THE COURT: And you agree?

11 MR. MCNATT: Yes, Your Honor.

12 THE COURT: Do you still want to
13 plead guilty to Forgery, a Misdemeanor I,
14 Theft, according to the --

15 MR. MCNATT: Yes, Your Honor.

16 THE COURT: Do you want to ask
17 me any questions about the plea?

18 MR. MCNATT: No, Your Honor.

19 THE COURT: All right. The
20 Court finds that Mr. McNatt has intelligently,
21 voluntarily, understandingly tendered the terms
22 of the plea. I assume that since you're
23 already in, you have a PSI? Yes, I have one.
24 You're in on my sentence.

25 MR. HINDMAN: No, Your Honor.

1 Your Honor, I would like to make a short
2 statement on that, if I could.

3 THE COURT: Okay.

4 MR. HINDMAN: He's being
5 held -- during the times these crimes occurred,
6 he was in Lackawanna County. When Mr. McNatt
7 was traveling back and forth to counties --
8 he's going to be sentenced on -- that's why he
9 wished that I would bring it to the Court's
10 attention when sentence is concurred, bring it
11 into
12 consideration -- same time as these crimes were
13 occurring.

14 THE COURT: All right. Then, I
15 will need it from Lackawanna County.

16 MR. MCNATT: I have them, Your
17 Honor.

18 THE COURT: Do you have them
19 here in jail?

20 MR. MCNATT: No, we couldn't
21 bring them.

22 THE COURT: What are we going to
23 do about sentencing him?

24 MR. MCNATT: Your Honor --

25 MR. HINDMAN: Your Honor, he's

1 engaged in some classes, some educational
2 courses. He asked if he could take at least to
3 October 20.

4 THE COURT: I would like to save
5 the sheriff the trip. Is that a problem?

6 MR. MARSHALL: It's not a
7 problem.

8 MR. MCNATT: Your Honor, I'm
9 going for my finals this week and next week.
10 I'm trying to get my business degree. If I
11 miss, I have to take the whole entire course
12 over again.

13 THE COURT: You talked me into
14 it. So you want to be sentenced on November
15 20th?

16 MR. MCNATT: Yes, please.

17 THE COURT: Okay. I'm not going
18 to order a PSI. I'm going to count on you to
19 get us a copy of the PSI out of -- and it was
20 done in Lackawanna County?

21 MR. MCNATT: Yes, Your Honor.

22 THE COURT: Who was your
23 sentencing judge in Lackawanna County? How
24 little we remember. I thought everybody
25 remembered the names of their sentencing judge.

1 MR. MCNATT: Judge Monely
2 (Phonetic).

3 THE COURT: Yes, the older
4 judge. Does the sheriff need a transport
5 order, or do you already have one?

6 MR. MARSHALL: I think we
7 already have one, Judge.

8 THE COURT: So you're actually
9 able to get into some programs at --

10 MR. MCNATT: I do a lot up
11 there. I go to school. As well as getting my
12 degree, I'm tutoring for the class I went in.

13 THE COURT: It's hard?

14 MR. MCNATT: Because of my
15 college education, it made it hard for me. I
16 have my little Christian counselling program
17 that I started up there.

18 THE COURT: That's a brand new
19 prison, right?

20 MR. MCNATT: Two years old.

21 THE COURT: Pods like Mercer.

22 Okay.

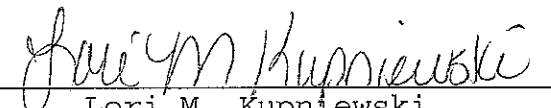
23

24 (Hearing concluded at 5:22 p.m.)

25

CERTIFICATE OF COURT REPORTER

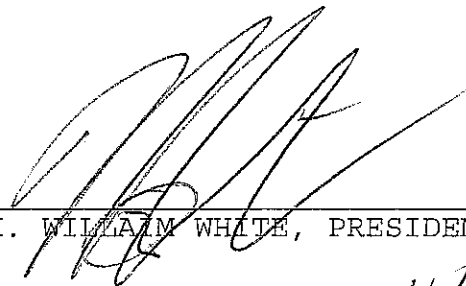
I hereby certify that the
proceedings, evidence and rulings of the court
are contained fully and accurately to the best
of my ability in the notes taken by me on the
hearing of the above petition and that it is a
correct transcript of the same.


Lori M. Kupniewski
Court Reporter and Notary

Lori M. Kupniewski
Official Court Reporter

APPROVAL OF JUDGE

The foregoing record of the
proceedings had upon the hearing of the above
petition is hereby approved and directed to be
filed.


H. WILLIAM WHITE, PRESIDENT JUDGE

11/14/05

623 Unique Words **From \$15,000 to Continuance**

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